

Office of the Attorney General
State of Texas



DAN MORALES
ATTORNEY GENERAL

September 27, 1991

Honorable Tim Curry
Criminal District Attorney
Tarrant County
Justice Center
401 W. Belknap
Fort Worth, Texas 76196-0201

OR91-450

Dear Mr. Curry:

On August 22, 1991, we received your request for an open records decision pursuant to section 7 of the Open Records Act, V.T.C.S. art. 6252-17a. Your request was assigned ID# 13380. You assert that the requested information is confidential under section 3(a)(10) of the Open Records Act.

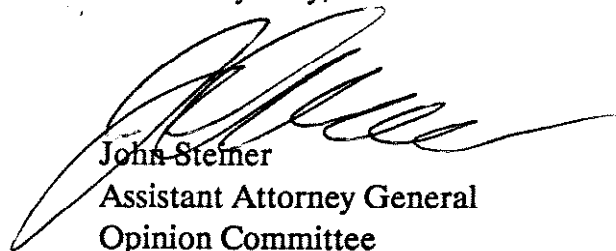
The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 7(a) to submit that request to the attorney general within 10 days of the governmental body's receipt of the request for information. The time limitation found in section 7 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.-Austin 1990, no writ). When a request for an open records decision is not made within the time prescribed by section 7(a), a heightened presumption of openness arises which can only be overcome by a compelling demonstration that the information should not be made public. *Id.* However, this presumption is inapplicable to information that is "confidential" under section 3(a)(10). Section 10 of the Open Records Act specifically prohibits the distribution of confidential information.

We realize that the short time frame prescribed by section 7(a) may occasionally impose a substantial burden on governmental bodies seeking to comply with the act. Accordingly, when we receive an otherwise timely request for an open records decision that lacks some information necessary for us to make a determination, it has been our policy to give the governmental body an opportunity to complete the request. On September 6, 1991, we asked you for copies of documents requested by Mr. William W. Collins, *i.e.* copies of proposals for a food service and catering contract with the Tarrant County Convention Center. To date we have not received your reply.

As your request for an open records decision remains incomplete, this office lacks the necessary information to evaluate your claim under section 3(a)(10). Accordingly, we are closing the file without a finding. The person requesting the information in your custody may pursue such remedies as may be appropriate. *See, e.g., V.T.C.S., art. 6252-17a, § 8.*

While we cannot direct you to disclose information that is confidential under the law, neither can we provide you with an opinion upon which you can rely as an affirmative defense to prosecution under section 10(c)(1) of the Open Records Act. If you have any questions regarding this matter, please refer to OR91-450.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/RWP/lcd

Ref.: ID# 13380

cc: William W. Collins, Jr.
Attorney at Law
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500 Throckmorton Street
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